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ERB, NATHAN				
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5 UNITED STATES PATENT AND TRADEMARK OFFICE

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7 BEFORE THE BOARD OF PATENT APPEALS
8 AND INTERFERENCES

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10 *Ex parte* PAUL MAYER

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12 Appeal 2009-1046
13 Application 10/675,368
14 Technology Center 3600

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16 Decided: ¹ April 1, 2009
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19 *Before:* MURRIEL E. CRAWFORD, HUBERT C. LORIN and ANTON W.
20 FETTING, *Administrative Patent Judges.*
21 CRAWFORD, *Administrative Patent Judge.*

22 DECISION ON APPEAL
23

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

STATEMENT OF CASE

Appellant appeals under 35 U.S.C. § 134 (2002) from a final rejection of claims 1 to 6. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

Appellant invented a web server integrated directly into an inserter system to provide status monitoring and configuration control (Specification 1).

Claim 1 under appeal reads as follows:

1. An inserter system comprising:
a plurality of modules for accumulating and assembling sheets into mail pieces; and
a controller computer coupled to the plurality of modules and controlling assembly of mail pieces in accordance with predetermined instructions, the controller computer receiving status data from the plurality of modules; the controller computer including one or more software-based data processing objects configured for processing the status data to determine inserter status, the data processing objects configured for passing processed status data directly to a network protocol object for transmittal, the controller computer further comprising a network port for directly transmitting status data processed by the network protocol object to an external network, and the network port and the network protocol object further configured for accepting incoming requests from the external network, the controller computer configured for transmitting inserter status data in real-time, without need for

1 withdrawal of information from a database or repository in the
2 controller computer;

3 wherein the network protocol object is an HTTP web
4 server object and the network port is a TCP/IP port; and

5 wherein the controller computer is configured so that
6 selection of data for transmission occurs in real-time, without
7 need for withdrawal of information from a database or
8 repository in the controller computer.

9
10 The Examiner rejected claims 1 and 3 to 4 under 35 U.S.C. § 103(a)
11 as being unpatentable over Gagliardi in view of Carroll.

12 The Examiner rejected claim 5 under 35 U.S.C. § 103 as being
13 unpatentable over Gagliardi in view of Carroll and McManus.

14 The prior art relied upon by the Examiner in rejecting the claims on
15 appeal is:

16 McManus et al.	US 2003/0101446 A1	May 29, 2003
17 Carroll et al.	US 2002/0083018 A1	Jun. 27, 2002
18 Gagliardi et al.	US 6,334,119 B1	Dec. 25, 2001

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21 ISSUES

22 Has Appellant shown that the Examiner erred in finding that Gagliardi
23 discloses a controller computer configured for transmitting inserter status
24 data in real-time without need for withdrawal of information from a database
25 or repository in the controller computer?

1
2 FINDINGS OF FACT

3 Gagliardi discloses an inserter system for mail processing that
4 includes an inserter control system 14 coupled to an operating management
5 system (OMS) (col. 4, ll. 42 to 67). As a postal meter affixes postage to
6 each envelope it also conveys postage information to the inserter control
7 system 14. The inserter control system 14 stores the postage information in
8 memory (col. 7, ll. 62 to 67). After the inserter system 10 completes a mail
9 run job, all the statistical data information including the postal information
10 relating to the mail run job remains stored in the memory of the inserter
11 control system 14 (col. 8, ll. 19 to 23). The statistical information of a
12 specific postal meter may be sent from the storage of the inserter control
13 system 14 to the OMS on a configured time interval (col. 8, ll. 39 to 41).

14
15 PRINCIPLES OF LAW

16 In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the
17 Examiner to establish a factual basis to support the legal conclusion of
18 obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988).

19
20 ANALYSIS

21 We will not sustain the rejections of the Examiner. The Examiner
22 relies on Gagliardi for teaching a controller computer configured for
23 transmitting inserter status data in real-time, without need for withdrawal of
24 information from a database or repository in the controller computer. In the
25 Examiner's analysis, the Gagliardi inserter control system 14 is the

1 controller computer. Even if we were to agree with the Examiner that the
2 configured time interval disclosed in Gagliardi corresponds to real time,
3 there is no disclosure that the inserter control system 14 transmits inserter
4 status data without first storing the data in the memory of the inserter control
5 system 14. In fact, as Gagliardi discloses that the postage information is
6 conveyed to the inserter control system 14 memory as the postal meter
7 affixes postage to each envelope, Gagliardi clearly teaches that the
8 information is stored in the inserter system 14 memory prior to any
9 transmission of the information. This is so even when the information is
10 transmitted on a configured time interval, because the transmission is made
11 after the occurrence of specific events such as mail run job end or job pause
12 clearly indicating that the postage information is stored until the occurrence
13 of the event.

14 In view of the foregoing, we will not sustain the rejection as it is
15 directed to claim 1 or claims 3 and 4 dependent thereon.

16 We will also not sustain the rejection of claim 5 under 35 U.S.C. §
17 103 as being unpatentable over Gagliardi in view of Carroll and McManus
18 because the Examiner relies on Gagliardi for teaching transmission of data
19 without need for withdrawal of information from a database.

20 21 CONCLUSION OF LAW

22 On the record before us, Appellant has shown that the Examiner erred
23 in rejecting claims 1, 3, and 4 under 35 U.S.C. § 103(a) as being
24 unpatentable over Gagliardi in view of Carroll and in rejecting claim 5 under

35 U.S.C. § 103(a) as being unpatentable over Gagliardi in view of Carroll
and McManus.

DECISION

The decision of the Examiner is reversed.

REVERSED

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